

THEODORE V. WELLS JR. (Admitted *Pro Hac Vice*)
MOSES SILVERMAN (Admitted *Pro Hac Vice*)
MICHAEL E. GERTZMAN (Admitted *Pro Hac Vice*)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 373-3000
Facsimile: (212) 757-3990

MICHAEL J. SHEPARD (State Bar No. 91281)
HELLER EHRMAN LLP
333 Bush Street
San Francisco, California 94104-2878
Telephone: (415) 772-6000
Facsimile: (415) 772-6268

Attorneys for Defendant
CHARLES W. McCALL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES W. McCALL, ET AL.

Defendants.

Case No.: CR-00-0505-WHA

**ELEVENTH STIPULATION AND
[PROPOSED] ORDER RE RETURN
OF DEFENDANT CHARLES W.
McCALL'S PASSPORT**

The Honorable William H. Alsup
Date: None
Time: None
Courtroom 9, Nineteenth Floor
Trial Date: None

1 The United States and defendant Charles W. McCall, through their respective
2 counsel, stipulate and agree as follows:

3 **RECITALS**

4 1. On June 4, 2003, this Court unsealed a second superseding indictment
5 containing charges against Mr. McCall. Trial in this matter began on September 11, 2006.
6 On November 3, 2006, the jury returned a verdict of not guilty as to Mr. McCall on Count 1
7 of the Indictment. The jury was unable to reach a verdict as to Mr. McCall on any of the
8 remaining six counts, and the Court declared a mistrial as to Counts 2, 4, 5, 6, 7 and 8 of the
9 Indictment and discharged the jury. The United States intends to re-try Mr. McCall on
10 those Counts. No trial date is presently assigned.

11 2. During Mr. McCall's arraignment on June 5, 2003, he surrendered his United
12 States Passport to the Court as part of his conditions of pre-trial release.

13 3. Between June 2003 and the present, this Court has entered ten stipulations and
14 orders regarding the return of Mr. McCall's passport. The orders were filed on September
15 3, 2003; January 5, 2004; August 12, 2004; November 22, 2004; May 13, 2005; September
16 6, 2005; April 11, 2006; June 4, 2007; November 8, 2007; and May 13, 2008 (collectively
17 the "Passport Orders"). These orders granted Mr. McCall permission to obtain and/or retain
18 his passport for personal travel abroad.

19 4. Upon obtaining, retaining, and/or returning his passport to the Court pursuant
20 to the Passport Orders, Mr. McCall, through his counsel, has notified the United States
21 Pretrial Services Agency by telephone and/or letter of the status of Mr. McCall's passport
22 and Mr. McCall's personal travel plans outside the United States.

23 5. Most recently, Mr. McCall, through his counsel, returned his passport to the
24 Court on August 29, 2008, in accordance with the Tenth Stipulation and Order re Return of
25 Defendant Charles W. McCall's Passport ("Tenth Passport Order"), entered May 13, 2008.

26 6. Mr. McCall respectfully requests, and the United States does not object, that
27 the Court again allow Mr. McCall to obtain his passport from the Court for three additional
28 trips abroad — from December 28, 2008 to January 10, 2009; from February 1, 2009 to

1 February 14, 2009; and from March 8, 2009 to March 22, 2009 — and for such other trips
2 (before April 6, 2009) that are approved in writing at least three (3) business days in
3 advance by the United States Pretrial Services Agency. Mr. McCall will provide the Office
4 of the United States Attorney with prompt written notice of any request for, and approval by
5 the United States Pretrial Services Agency of, additional travel not otherwise specified in
6 this Stipulation and Order.

7 7. Upon completion of his travels, Mr. McCall shall surrender his passport to
8 this Court on or before April 6, 2009.

9 8. Mr. McCall further respectfully requests, and the United States does not
10 object, that this Stipulation and Order supersede the Tenth Passport Order.

11 9. On September 23, 2008, Pretrial Services Officer Ken Goldberg (Southern
12 District of Florida, West Palm Beach Division) informed counsel for Mr. McCall that he has
13 no objection to Mr. McCall's plans to retrieve his passport and travel abroad.

14 10. On September 17, 2008, Pretrial Services Officer Alan Lew (Northern District
15 of California) informed counsel for Mr. McCall that he would defer to Mr. Goldberg's
16 determinations regarding Mr. McCall's travel plans.

17 **STIPULATION**

18 Based on the foregoing, IT IS HEREBY STIPULATED AND AGREED that Mr.
19 McCall's United States Passport shall, with this Court's permission, be returned to him so
20 that he may travel abroad — from December 28, 2008 to January 10, 2009; from February
21 1, 2009 to February 14, 2009; and from March 8, 2009 to March 22, 2009 — and for such
22 other trips (before April 6, 2009) that are approved in writing at least three (3) business days
23 in advance by the United States Pretrial Services Agency. Mr. McCall shall provide the
24 Office of the United States Attorney with prompt written notice of any request for, and
25 approval by the United States Pretrial Services Agency of, additional travel not otherwise

26 //

27 //

28 //

1 specified in this Stipulation and Order. Mr. McCall shall surrender his passport to this
2 Court on or before April 6, 2009. This Order supersedes the Tenth Passport Order.
3 IT IS SO STIPULATED AND AGREED.

4 DATED: September 24, 2008 HELLER EHRMAN LLP
5 PAUL, WEISS, RIFKIND, WHARTON, &
6 GARRISON LLP

7 By _____/s/_____
8 Michael J. Shepard

9 Attorneys for Defendant
CHARLES W. McCALL

10 DATED: September 24, 2008 UNITED STATES OF AMERICA

11 By _____/s/_____
12 Timothy P. Crudo
13 Office of the United States Attorney
14 450 Golden Gate Avenue
15 Eleventh Floor
16 San Francisco, CA 94102
17 (415) 436-7200
18 (415) 436-7234 FAX

19 Attorneys for the United States

20 Pursuant to the foregoing stipulation, IT IS SO ORDERED.

21 DATED: September 26, 2008

22 THE HONORABLE WILLIAM H. ALSUP
23 United States District Judge

